

GST

Integrated Goods and Services Tax



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GOODS AND SERVICES TAX

Refund of Unutilised Input Tax Credit (ITC)

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Directorate General of Taxpayer Services
CENTRAL BOARD OF INDIRECT TAXES & CUSTOMS
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Refund of Unutilised Input Tax Credit (ITC)

Accumulation of Input Tax Credit (ITC) happens when the tax paid on inputs is more than the output tax liability. Such accumulated ITC is allowed to be carried over to the subsequent tax periods till such time it can be utilised by the registered person for payment of output tax liability. However, the GST Law permits refund of unutilised ITC in two scenarios if such credit accumulation is on account of zero rated supplies or on account of inverted duty structure, subject to certain exceptions.

As per Section 54(3) of the CGST Act, 2017, a registered person may claim refund of unutilised Input Tax Credit at the end of any tax period. A tax period is the period for which return is required to be furnished.

Refund of unutilised Input Tax Credit is allowed only in following two scenarios:

(a) **Zero rated supplies made without payment of tax:** As per Section 16(3) of the IGST Act, 2017, a registered person making zero rated supply is eligible to claim refund under either of the following options, namely:

- Supply of goods or services or both under bond or Letter of Undertaking (LUT), subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of un-utilised input tax credit; or
- Supply of goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied.

The first option pertains to refund of unutilised ITC for which the registered person has to supply under Bond / LUT (as prescribed in Rule 96A of CGST Rules, 2017) and in the second option supply has been made on payment of Tax (IGST). In both the cases, refund would be available in accordance with Section 54 of the CGST Act, 2017 read with Rule 89 or Rule 96, as the case may be, of the CGST Rules, 2017.

(b) **Inverted duty structure:** Where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies (other than nil rated or fully exempt supplies), except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council. This would include even those cases where supply

Further, the drawback in respect of Central tax should not have been availed for claiming refund of accumulated ITC under section 54(3)(ii) of the CGST Act, 2017.

Where to file the refund claims

The registered person needs to file the refund claim online which will be transferred to the jurisdictional tax authority to which the taxpayer has been assigned as per the administrative order issued in this regard by the Chief Commissioner of Central Tax and the Commissioner of State Tax.

In case such an order has not been issued in the State, the registered person is at liberty to apply for refund before the Central Tax Authority or State Tax Authority till the administrative mechanism for assigning of taxpayers to respective authority is implemented. However, in the latter case, an undertaking is required to be submitted stating that the claim for sanction of refund has been made to only one of the authorities. It is reiterated that the Central Tax officers shall facilitate the processing of the refund claims of all registered persons whether or not such person was registered with the Central Government in the earlier regime.

Conclusion

The GST Law provides for two options to the suppliers of zero rated supplies either to export under bond or LUT and claim refund of unutilised ITC or to export with payment of tax and then claim refund of such tax paid. The law also provides for refund of unutilised ITC where credit accumulation is on account of inverted duty structure, subject to certain riders.

It also includes cases where supply has been made to merchant exporters under Notification no. 40/2017- Central Tax (Rate) dated 23.10.2017 or Notification No. 41/2017-Integrated Tax (Rate) dated 23.10.2017 or both. Time lines have been prescribed for processing of refund claims and claims not settled within 60 days will be paid with interest @6%. Moreover, 90% of the claim would be paid within 7 days of acknowledgement of claim on provisional basis in case of claims on account of zero rated supplies.

Claims are to be filed with minimum documentation and the refund amount will be credited directly to the claimant's bank account.

containing the number and date of invoices received and issued during a tax period. Rule 89(3) of CGST Rules, 2017 provides that where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant in an amount equal to the refund so claimed.

Formula for calculation of refund of unutilised ITC on account of inverted rated structure has been amended vide Notification No. 14/2022-CT dated 05.07.2022 so as to take into account utilisation of ITC of input services for discharge of outward tax liability.

Refund of unutilised ITC on account of export of electricity

CGST Rules, 2017 has been amended vide Notification No. 14/2022-CT dated 05.07.2022 by way of insertion of clause (ba) in sub-rule (2) of rule 89 and Statement 3B in FORM GST RFD-01 to provide for filing of an application of refund of unutilised ITC by an exporter of electricity. Further, Circular No. 175/07/2022-GST dated 06.07.2022 has been issued to prescribe procedure for filing and processing of refund of unutilised ITC on account of export of electricity.

Provisions similar for refund of accumulated ITC for both types of Refund Applicants (suppliers making zero-rated / inverted duty supplies)

Where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant by an amount equal to the refund so claimed as per Rule 89(3) of CGST Rules, 2017.

Also, interest will be paid for any delay in sanctioning of Refund beyond the mandated period of 60 days (as per Rule 94 of CGST Rules, 2017).

The refund and/or interest sanctioned, if any, will be directly credited to the bank account of the applicant.

Refund claims in respect of inverted duty structure

Refund claims on account of inverted duty structure shall be filed for a tax period or by clubbing tax periods in FORM GST RFD-01. However, the registered persons having aggregate turnover of up to Rs. 1.5 Cr in the preceding financial year or the current financial year and who have opted to file FORM GSTR-1 on a quarterly basis shall apply for refund on a quarterly basis or by clubbing quarters.

Further, it is stated that the refund claim for a tax period may be filed only after filing the details in FORM GSTR-1 for the said tax period. It is also to be ensured that a valid return in FORM GSTR-3B has been filed for the last tax period before the one in which the refund application is being filed.

has been made to merchant exporters under Notification No. 40/2017- Central Tax (Rate) dated 23.10.2017 or Notification No. 41/2017-Integrated Tax (Rate) dated 23.10.2017.

In such cases also, refund would be available in accordance with Section 54 of the CGST Act, 2017 read with Rule 89 of the CGST Rules, 2017.

It shall be noted that no refund of unutilised Input Tax Credit is allowed in cases where the goods exported out of India are subjected to export duty. Further, no refund of Input Tax Credit is allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

Refund of ITC on account of zero-rated supplies

The application for refund of unutilised ITC on account of zero-rated supplies (without payment of tax under Bond/LUT) has to be accompanied by documentary evidence as may be prescribed to establish that a refund is due to the applicant; and such documentary or other evidence as the applicant may furnish to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person.

Rule 89(2) of the CGST Rules, 2017, specifies documents to be furnished with the application for refund under each category.

Rule 89(3) of CGST Rules, 2017 provides that where the application relates to refund of input tax credit, the electronic credit ledger shall be debited by the applicant in an amount equal to the refund so claimed.

Further, sub-section (6) of section 54 of the CGST Act, 2017, provides for sanction of 90% of refund amount, excluding the amount of ITC provisionally accepted, on provisional basis in cases where the claim for refund is on account of zero-rated supply of goods or services or both made by registered persons, other than such category of registered persons as may be notified by the Government on the recommendations of the Council;

Sub-section (7) of Section 54 provides that the final refund sanction/rejection order shall be issued within sixty days from the date of receipt of application, complete in all respects.

Rule 91 of CGST Rules, 2017 provides that the provisional refund is to be granted within 7 days from the date of acknowledgement of the refund claim and the order for provisional refund is to be issued in **FORM GST RFD 04** along with payment order in the name of the claimant in **FORM GST RFD 05**. The rules also prescribe the provisional refund will not be granted if the person claiming refund has, during any period of five years immediately preceding the tax period to which the claim for refund relates, been prosecuted for

any offence under the Act or under an earlier law where the amount of tax evaded exceeds ₹ 2.5 Cr.

It may also be noted that as per sub-section (8) of section 54 of the CGST Act, the refund is to be credited to the applicant instead of Consumer Welfare Funding the following cases :-

- (a) refund of tax paid on Export of goods or services or both or on inputs or input services used in making such Exports;
- (b) refund of unutilised Input Tax Credit under section 54(3) of the CGST Act, 2017.
- (c) refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- (d) refund of tax in pursuance of Section 77;
- (e) the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- (f) the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify.

Formula for grant of refund in cases where the refund of accumulated Input Tax Credit is on account of zero rated supply is prescribed in sub-rule (4) of Rule 89, which is

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover Where,

- (a) “Refund amount” means the maximum refund that is admissible;
- (b) “Net ITC” means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under rule 89(4A) or 89(4B) or both;
- (c) “Turnover of zero-rated supply of goods “ means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking or the value which is 1.5 times the value of like goods domestically supplied by the same or, similarly placed, supplier, as declared by the supplier, whichever is less, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;

Sr. No	Tariff item, heading, sub-heading or Chapter	Description of Goods
1E	1511	Palm oil and its fractions, whether or not refined, but not chemically modified.
1F	1512	Sunflower-seed, safflower or cotton-seed oil and fractions thereof, whether or not refined, but not chemically modified.
1G	1513	Coconut (copra), palm kernel or babassu oil and fractions thereof, whether or not refined, but not chemically modified.
1H	1514	Rape, colza or mustard oil and fractions thereof, whether or not refined, but not chemically modified.
1I	1515	Other fixed vegetable or microbial fats and oils (including jojoba oil) and their fractions, whether or not refined, but not chemically modified.
1J	1516	Vegetable fats and oils and their fractions, partly or wholly hydrogenated, interesterified, re-esterified or elaidinised, whether or not refined, but not further prepared.
1K	1517	Edible mixtures or preparations of vegetable fats or vegetable oils or of fractions of different vegetable fats or vegetable oils of this Chapter, other than edible fats or oils or their fractions of heading 1516
1L	1518	Vegetable fats and oils and their fractions, boiled, oxidised, dehydrated, sulphurised, blown, polymerised by heat in vacuum or in inert gas or otherwise chemically modified, excluding those of heading 1516
1M	2701	Coal; briquettes, ovoids and similar solid fuels manufactured from coal
1N	2702	Lignite, whether or not agglomerated, excluding jet
1O	2703	Peat (including peat litter), whether or not agglomerated

Rule 89(2) (h) of CGST Rules, 2017 stipulates that refund claim on account of accumulated ITC (where such accumulation is on account of inverted duty structure) has to be accompanied by a statement

It was clarified by the Government vide Circular no. 18/18/2017-GST dated 16.11.2017, that the aforesaid notification having been issued under clause (ii) of the proviso to sub-section (3) of Section 54 of the CGST Act, 2017, restriction on refund of unutilised input tax credit of GST paid on inputs will not be applicable to zero rated supplies, that is (a) export of goods or services or both; or (b) supply of goods or services or both to a Special Economic Zone Developer of special Economic Zone Unit.

Accordingly, as regards export of fabrics, it has been clarified that subject to provisions of Section 54(10) of the CGST Act, 2017, a manufacturer of such fabrics will be eligible for refund of unutilised input tax credit of GST paid on inputs (other than input tax credit of GST paid on capital goods) in respect of fabrics manufactured and exported by him.

However, vide Notification no. 20/2018-Central Tax (Rate) dated 26.07.2018, the restriction of refund on account of inverted rate structure for items mentioned at Sr.no. 1 to 7 of the above table has been removed w.e.f. 01.08.2018 and it has been further provided that in respect of said goods, the accumulated input tax credit lying unutilised in balance, after payment of tax for and up to the month of July, 2018, on the inward supplies received up to the 31st day of July 2018, shall lapse.

Further, Notification No. 05/2017- Central Tax (Rate) dated 28.06.2017 has been amended vide Notification No. 09/2022- Central Tax (Rate) dated 13.07.2022 vide which the government has notified the following goods in respect of which refund of unutilized ITC will not be admissible w.e.f. 18.07.2022:

Sr. No	Tariff item, heading, sub-heading or Chapter	Description of Goods
1A	1507	Soya-bean oil and its fractions, whether or not refined, but not chemically modified
1B	1508	Ground-nut oil and its fractions, whether or not refined, but not chemically modified.
1C	1509	Olive oil and its fractions, whether or not refined, but not chemically modified.
1D	1510	Other oils and their fractions, obtained solely from olives, whether or not refined, but not chemically modified, including blends of these oils or fractions with oils or fractions of heading 1509

(d) “Turnover of zero-rated supply of services” means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

(e) “Adjusted Total Turnover” means the sum total of the value of-

- the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the turnover of services; and
- the turnover of zero-rated supply of services determined in terms of clause (D) above and non-zero-rated supply of services, excluding-
 - (i) the value of exempt supplies other than zero-rated supplies; and
 - (ii) the turnover of supplies in respect of which refund is claimed under sub-rule (4A) or sub-rule (4B) or both, if any, during the relevant period;

(f) “Relevant period” means the period for which the claim has been filed.

Explanation.–For the purposes of this sub-rule, the value of goods exported out of India shall be taken as –

- (i) the Free on Board (FOB) value declared in the Shipping Bill or Bill of Export form, as the case may be, as per the Shipping Bill and Bill of Export (Forms) Regulations, 2017; or
- (ii) the value declared in tax invoice or bill of supply, whichever is less.

It may be noted that rule 89(4A) has been inserted, w.e.f. 23.10.2017 in CGST Rules, 2017, vide Notification no. 3/2018-Central Tax dated 23.01.2018 provides for refund of ITC availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, where the supplier has availed benefit of Notification No. 48/2017-Central Tax dated 18.10.2017. Further, rule 89(4B) has been inserted, w.e.f 23.10.2017, vide Notification No. 3/2018-Central Tax dated 23.01.2018 and amended vide Notification No. 54/2018-Central Tax dated 09.10.2018 so as to provide that refund of input tax credit, , availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in

making such export of goods, when the exporter has received supplies on which supplier has availed benefit of under Notification no. 40/2017-Central Tax (Rate) dated 23.10.2017 or Notification no. 41/2017-Integrated Tax (Rate) dated 23.10.2017, or when the exporter has himself availed the benefit of duty/tax free procurement under the Notification No. 78/2017-Customs dated 13.10.2017 or Notification No. 79/2017-Customs dated 13.10.2017.

Refund of ITC on account of inverted duty structure

As per clause (ii) of the first proviso of Section 54(3) of CGST Act, 2017, refund of accumulated ITC shall be allowed where the credit accumulation has taken place on account of inverted duty structure. It may be noted that this would include even those cases where supply has been made to merchant exporters under Notification no. 40/2017- Central Tax (Rate) dated 23.10.2017 or Notification No. 41/2017-Integrated Tax (Rate) dated 23.10.2017 or both. However, no refund on account of inverted duty structure is available when the output supply is Nil rated or exempt supply.

Further, the Government, on the recommendations of Council, has power to notify supplies where refund of ITC will not be admissible even if there is credit accumulation is on account of an inverted duty structure. In exercise of the powers conferred by this section, the government has issued Notification no. 15/2017-Central Tax (Rate) dated 28.06.2017 wherein it has been notified that refund of unutilised input tax credit shall not be allowed under sub-section (3) of Section 54 of the said CGST Act, 2017, in case of supply of services specified in sub-item (b) of item 5 of Schedule II of the CGST Act, 2017. The supplies specified under item 5(b) of Schedule II are construction services.

In respect of goods, the central government has issued Notification no. 5/2017- Central Tax (Rate) dated 28.06.2017 as amended by Notification no. 44/2017-Central Tax (Rate) dated 14.11.2017. The government has notified the following goods in respect of which unutilised ITC will not be admissible as refund:-

Sr. No	Tariff item, heading, sub-heading or Chapter	Description of Goods
1	5007	Woven fabrics of silk or of silk waste
2	5111 to 5113	Woven fabrics of wool or of animal hair
3	5208 to 5212	Woven fabrics of cotton
4	5309 to 5311	Woven fabrics of other vegetable textile fibres, paper yarn
5	5407, 5408	Woven fabrics of manmade textile materials
6	5512 to 5516	Woven fabrics of manmade staple fibres

Sr. No	Tariff item, heading, sub-heading or Chapter	Description of Goods
6A	5608	Knotted netting of twine, cordage or rope; made up fishing nets and other made up nets, of textile materials
6B	5801	Corduroy fabrics
6C	5806	Narrow woven fabrics, other than goods of heading 5807; narrow fabrics consisting of warp without weft assembled by means of an adhesive (bolducs)
7	60	Knitted or crocheted fabrics [All goods]
8	8601	Rail locomotives powered from an external source of electricity or by electric accumulators
9	8602	Other rail locomotives; locomotive tenders; such as Diesel-electric locomotives, Steam locomotives and tenders thereof
10	8603	Self-propelled railway or tramway coaches, vans and trucks, other than those of heading 8604
11	8604	Railway or tramway maintenance or service vehicles, whether or not self-propelled (for example, workshops, cranes, ballast tampers, track liners, testing coaches and track inspection vehicles)
12	8605	Railway or tramway passenger coaches, not self-propelled; luggage vans, post office coaches and other special purpose railway or tramway coaches, not self-propelled (excluding those of heading 8604)
13	8606	Railway or tramway goods vans and wagons, not self-propelled
14	8607	Parts of railway or tramway locomotives or rolling-stock; such as Bogies, bissel-bogies, axles and wheels, and parts thereof
15	8608	Railway or tramway track fixtures and fittings; mechanical (including electro-mechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing